Filed 5/19/14 In re A.B. CA1/1

NOT TO BE PUBLISHED IN OFFICIAL REPORTS

California Rules of Court, rule 8.1115(a), prohibits courts and parties from citing or relying on opinions not certified for publication or ordered published, except as specified by rule 8.1115(b). This opinion has not been certified for publication or ordered published for purposes of rule 8.1115.

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FIRST APPELLATE DISTRICT

DIVISION ONE

In re A.B. et al., Persons Coming Under the Juvenile Court Law.	
MARIN COUNTY HEALTH AND HUMAN SERVICES, Plaintiff and Respondent, v. J.B., Defendant and Appellant.	A139346 (Marin County Super. Ct. Nos. JV25708, JV 25709)

J.B. (Mother) appeals from the juvenile court's findings and orders under Welfare and Institutions Code[1] sections 361 and 361.2 removing custody of her two minor children, placing them in the custody of their respective fathers, and retaining limited jurisdiction for the purpose of reviewing the minors' placements with their fathers in three months. Mother contends (1) no substantial evidence supported removal of the minors under section 361, and (2) even assuming removal was proper, the juvenile court abused its discretion under section 361.2 by not ordering closer supervision of the minors' placements with their fathers in combination with offering family reunification services to her. We reject these contentions, and affirm the juvenile court's orders.

[1] All further statutory references are to the Welfare and Institutions Code.

I. FACTUAL AND PROCEDURAL BACKGROUND

Minor A.B., born in September 2001, is the biological child of Mother and Julian L. A.B. was diagnosed with autistic spectrum disorder at an early age. A.B.'s half-sibling, Z.B., was born in October 2005. Z.B.'s biological father is Gavin. E.

A. *Section 300 Petitions*

Just after midnight on December 31, 2012, San Anselmo police received a call that Z.B. had been observed running from his apartment toward a nearby park. When officers found him, he was crying and fearful of his mother, and told them she was going to kill him. He had a couple of small marks which he said were from Mother pinching him and kicking him. When police brought him home, Mother said that she had been trying to clean his bottom when he ran away. Mother appeared to be under the influence of something. Police entering the house were "taken aback by the deplorable state of the residence." There were dirty dishes, chicken bones, and rotting food in the sink, and old food was left on the table, and the toilet bowl was full with feces and contained no water. A bread knife with a nine-inch blade was next to Mother's bed. Police observed a glass bong that contained a usable amount of marijuana, "1,000's" of metal capsules that commonly contain nitrous oxide scattered across the residence and in boxes throughout the entire apartment, several prescription bottles of pain medication in the mother's bedroom, and more pills in a large plastic bag by the couch in the living room. A.B. was asleep upstairs. Police arrested Mother for possible child endangerment, child abuse, and possession of illegal substances, and called Marin County Health and Human Services (Department). The boys were taken to an emergency foster home.

The Department filed section 300 petitions, alleging the boys were at substantial risk of harm due to Mother's inability to provide them with adequate care and supervision due to her "mental illness, developmental disability, or substance abuse." Supporting facts were taken from the December 31 police report. The petitions alleged (1) the home was littered with thousands of nitrous oxide canisters and Mother admitted to "huffing," (2) Mother had pinched Z.B. and kicked him in the shin, and (3) the home was in "complete disarray" with identified hazards (i.e. the bottle of prescription pain

medication within easy reach of the boys). The Department recommended the boys be detained with their respective biological fathers in Stanislaus County (Z.B.) and San Mateo County (A.B.), and Mother be given case plan services, including substance abuse treatment services, random drug testing, parenting education, and mental health counseling. Both fathers requested custody of their sons. The plan also included weekly supervised visitation for Mother with the minors

On January 7, 2013, Mother submitted on detention. The court found both fathers to have presumed father status, and made the recommended orders, including to provide both fathers with parenting education.

B. *Jurisdiction Report*

According to the jurisdiction report, there had been a total of 29 referrals regarding the family, dating back to 2005. Some were related to domestic disturbances between Gavin and Mother in 2005, and physical altercations between Gavin and his brother witnessed by Z.B. Others involved drug use and lack of supervision by Mother, and allegations by Mother of sexual abuse by Z.B.'s uncle during Z.B.'s visitation with Gavin (determined to be unfounded). In 2011, it was reported that Mother may have been under the influence of drugs or alcohol when she dropped Z.B. off for summer camp, that Z.B. reported Mother spanked him for no reason, would sleep and not supervise him or A.B., and that the minors did not get dinner or lunch at home sometimes. These reports were later determined to be unfounded or inconclusive. There were several reports of concerns about Mother's mental health and appearance of being overmedicated. Z.B.'s special needs school "had many concerns about this family." He had poor school attendance and many disciplinary actions, including suspension after he brought a lighter and some straw to school and said he knew how to burn the school down. He was suspended from school six times. He came to school with bruises and would become protective of Mother when asked about the injuries, or in one instance when he was asked to talk about a sentence he wrote on a "feelings worksheet" that he hoped Mother would stop hitting him. A reporting party at the school believed Mother was abusing methamphetamines and/or prescription drugs, and was uncooperative with attempts to help her and Z.B. Mother

ignored or rejected repeated attempts by the Department in 2012 to get her to agree to a voluntary case plan, and refused all forms of communication with the Department about services for the family.

Social worker Janelle Torres reported that Mother told her she was attending a weekly support group and was participating in individual counseling. She had completed an outpatient substance abuse program three years earlier and attributed her current relapse to chronic pain arising after receiving a massage in 2010. Mother presented as disheveled and disorganized, and wore her sunglasses throughout an indoor meeting with another social worker. Mother denied pinching, kicking, or physically abusing Z.B. in any way the night of her arrest. Mother said she simply was trying to clean Z.B.'s bottom because it was raw and irritated. The social worker wrote: "Although [Mother] appears to be motivated to have her sons returned to her care and states she is willing to participate in services, she continues to minimize the situations that led to the removal of her children. [Mother] continues to blame others (including her children) for the conditions of the home and/or no one helping her. Until [Mother] is willing to seriously address her chronic drug dependency, and then her unstable mental health, the Undersigned is concerned [Mother] will continue to endanger her children."

Mother submitted on the jurisdiction report.[2] The court sustained an amended allegation that Mother put the boys at substantial risk of suffering serious physical harm or illness due to (1) the willful or negligent failure of Mother to supervise or protect the boys; and (2) the inability of Mother to provide regular care for the boys due to Mother's mental illness, developmental disability, or substance abuse. The court set a hearing on disposition.

C. *Disposition Report*

The Department filed a disposition report in March 2013. It found Mother to be very smart and resourceful and noted she had on her own initiative started participating in

[2] However, Mother indicated her intent to and did later submit a statement listing her disagreements with the report.

services including individual and group therapy, and a pain management course. Nonetheless, social worker Torres stated she was still deeply concerned about Mother due to her long struggle with a polysubstance dependency, and her recent relapse. She seemed overwhelmed and had in many instances been unresponsive to those seeking to assist her. Although Mother reported she had ceased to use inhalants as of early January 2013, she had made recent misrepresentations to that effect. The social worker had researched drug testing for nitrous oxide and found it was impossible because the drug is eliminated from the body within minutes. That meant the Department would have to rely on Mother's self-reports in order to protect the minors' safety and well-being in her care. The children stated Mother had instructed them not to divulge information about the family situation, and both children had complied. A.B.'s psychologist for the past year, Dr. Barbara Nova, also believed Mother had coached the children. In addition, Dr. Nova reported Mother had absconded with the children to evade Child Protective Services (CPS) in the summer of 2012. The social worker stated the Department was "very concerned about [the minors] being safe in [Mother's] care and about being able to oversee [Mother's] ability to make appropriate and safe choices in the care of the children," and therefore could not recommend family reunification services for Mother.

The report noted additional concerns expressed by Dr. Nova. She identified some of A.B.'s responsibilities when he lived with his mother (such as reminding Mother where her car keys were, or reminding her of appointments) as age and developmentally inappropriate. Dr. Nova expressed concern about an "enmeshed" relationship between Mother and A.B, where Mother placed undue focus on A.B.'s body and hygiene. As an example, she cited her understanding that Mother put cream on the entirety of A.B.'s body. The relationship dynamics between A.B. and Mother tended to result in Z.B. being "pushed out," blamed for A.B.'s actions, and made to feel mistreated and resentful. The social worker wrote: "Dr. Nova stated that were [A.B.] to return to his mother's care she would be concerned about [A.B.] being neglected again [and] it was not clear that the children were always fed and getting their meals at appropriate times." Dr. Nova felt

living with his father was having a positive effect on A.B., making him feel stronger and more empowered.

With respect to custody by their fathers, the social worker reported: "[I]t has been very positive for both [A.B.] and [Z.B.] that they are now safe, are able to continue being cared for within their family and that they seem happy with their fathers." She also reported visitation with Mother had generally gone well, the visits and had been warm and positive, and Mother had acted appropriately for the most part. The supervising staff expressed some concern that Mother was excessive in her focus on A.B.'s hygiene, and became very hostile toward Gavin and his family, and inappropriate with Z.B., for no apparent reason at the end of one visit.

With regard to Z.B.'s father, Gavin, the social worker reported he "would like to participate in counseling to help him through the process of transitioning into being a full time father." Z.B.'s paternal grandmother said they "very much wanted to be more involved in [Z.B.'s] life." Z.B. had a few tantrums when he was first placed with his father. However, his behaviors had calmed down. Although Z.B. said his father and uncle sometimes fight, investigating the matter, the Department learned Gavin completed an anger management course in 2006. In addition, about a year and a half had passed since Gavin and his brother had a physical fight. Although Gavin admitted he spanked Z.B. on one occasion, Gavin and the whole family decided to work with a retired teacher on parenting techniques. Then, the social worker succeeded in arranging therapy for Gavin through the school program that had made therapy available for Z.B. Based on Gavin's willingness to attend therapy and recent reports about Z.B.'s progress in school, the social worker concluded there were no concerns about the safety of Z.B. In an addendum to the disposition report, dated May 1, 2013, the Department recommended termination of dependency jurisdiction as to Z.B.[3] The disposition report did not address

[3] In the original disposition report, filed before therapy for Gavin had been arranged, the social worker had recommended six months of family maintenance services for Gavin, but not dismissal, based on Gavin's history of getting into physical fights with his brother.

whether Z.B. might be at risk of being sexually abused by his paternal uncle, who lives in the same home as Gavin.[4]

With regard to A.B.'s father, Julian, the social worker wrote that he sought full custody of A.B. and did not know about the problems in Mother's home. Julian said A.B.'s behavior and coping skills improved in his home. A.B. followed the rules and made good choices. He enjoyed playing tennis with his father and his half-sister. A.B. told the social worker he did not have any worries at his father's home, but did worry about Mother. Julian had been consistent in assuring A.B. attends therapy. The social worker concluded Julian "can continue parenting [A.B.] safely and appropriately without the oversight of the Department and can ensure that [A.B] maintains a relationship with his brother." The Department recommended dismissing the case as to A.B. with full physical custody of A.B. granted to Julian.

The social worker summarized the problems requiring the intervention of the Department as follows: (1) Mother's substance abuse, (2) Mother's inappropriate parenting, (3) mental health concerns about Mother,[5] (4) Mother's unsafe home conditions, and (5) "Other Safety Concerns" such as the risk of Mother absconding with the boys.

---

[4] Mother's counsel raised the issue at the contested disposition hearing. As noted earlier, reports of abuse by Gavin's brother were never substantiated. The social worker explained that the brother does live in the same home with Z.B., Gavin, and the grandparents. She acknowledged she "could be concerned" about Z.B.'s safety if Gavin's family did not follow the Department's recommendation that he not have unsupervised time with his uncle and did not know whether or not the family has continued to follow this recommendation. However, the social worker pointed out that Z.B. specifically said no one had touched his private parts and she had "no evidence . . . he would be unsafe [living with the uncle]."

[5] Dr. Nova told the social worker Mother was "paranoid" and could be "delusional" and prone to imagining conspiracies. As the social worker acknowledged at the dispositional hearing, Dr. Nova was not Mother's therapist and had performed no psychological testing or evaluation of her.

D. *Disposition Hearing*

The social worker testified the basis for the recommendations to remove the boys and not offer Mother services to reunify was concern the Department was unable to assure the children will be safe in Mother's care because (1) no tests can detect use of nitrous oxide; (2) Mother was not a reliable self-reporter; (3) A.B. indicated Mother has asked him to keep her use of nitrous oxide secret; and (4) in 2012, Mother "absconded" with the boys when she thought CPS might remove them. The basis for the recommendation to give both fathers full custody and dismiss the dependencies was that the boys seem to have positive relationships with their fathers and seemed to be safe in their care. Because the boys had lived with Mother all of their lives and loved her, the social worker believed it was in their best interests to continue to have contact with her through supervised visits.

On cross-examination, the social worker acknowledged there have never been any substantiated referrals that Mother has physically abused either minor, and the amended petition contained no allegation that Mother has physically abused either child. The disposition report included opinions about Mother's mental health from A.B.'s individual therapist, who had done no therapy with Mother, or performed any mental health examination or evaluation of Mother. Mother had an individual therapist, Rose Rutman, whom she had been seeing since 2009. The social worker had spoken with Ms. Rutman about this case once, on February 11, 2013, but did not include information from Rutman in her disposition report because Rutman's observations of Mother did not agree with what she had observed. Rutman said Mother had been attending therapy consistently, and as of February was doing much better and making significant efforts to get her house cleaned up despite her physical impairments.

When the social worker took over the case after detention of the boys in January, Mother asked her on a number of occasions what case plan the social worker had in mind for her. Mother was already working with a therapist, Ms. Rutman, so the social worker did not refer her to one. Mother found a parenting class on her own. On February 6, at a meeting between Mother and the social worker, Mother asked her for an actual case plan.

She did not offer to provide one at that time because "I can't develop a case plan until I assess the family situation, so it would be premature for me to provide a case plan without talking to all the parties and service providers involved to have a better understanding of the family's needs." At some point she did talk to Mother "about what a case plan would look like and I indicated that they would be the services that she's [already] working on."

Mother testified she has been diagnosed with fibromyalgia, for which she was being treated by a physician. It is a nerve disorder that causes constant pain and mobility issues. She takes medications for it and for arthritis in her joints. After the incident causing court intervention, she signed up for a pain management class at Kaiser, and was told that she could start one shortly. She testified she was hopeful this would help her deal better with her pain. She had been seeing Ms. Rutman since early 2009 for stress-related issues, for which she received a posttraumatic stress disorder diagnosis. Since the fall of 2012, she had also been participating in group therapy led by Rutman. She felt she had greatly benefitted by participation in the group.

Wanting to be proactive for return of the boys, on her own Mother found and started a parenting program at Apple Family Works, which was ongoing, and went to Center Point to see about substance abuse treatment. They told her that the parenting education and group therapy she was already doing were the kinds of things they would recommend for her to address nitrous oxide use. The staff person gave Mother his card and said her social worker could call him, and she gave that information to her case worker, who did not follow up. Since January she had attended more than 25 Narcotics Anonymous meetings. They had been very helpful for developing support.

None of the things Mother had been doing had been the result of referrals or assistance from the Department. When she asked her social worker for a case plan, the social worker said something like "you've made your choice," and would not discuss with her what services were available. At the beginning of the case Ms. Rutman told Mother the social worker said a "parent partner" was one of the reunification services the Department could provide, but that had not been offered to her. Through her own efforts

she had made many changes and improvements to her home, to help her keep things in better condition, and she asked the social worker to come see those changes, but the social worker had not come to see them.

Mother denied telling Dr. Nova she had gone away with the boys because she was afraid that CPS might remove them, nor did she "abscond" with them. She took them on an early vacation, to avoid the Christmas crowds. She denied instructing her children not to talk to anyone about the family, but she acknowledged telling them not to talk to outsiders about her medical or health issues. Mother denied causing any injuries or marks, or rashes on the boys, or using any corporal punishment on them. She said Z.B. had "extremely sensitive" skin and had had contact dermatitis, viral hives, and prickly heat.

During Mother's visits with A.B. they played together and enjoyed their time. He expressed missing her a lot. Two hours once a week was far too little time for them, because A.B. had lived with her all of his life and they have a very strong bond. Mother had only had a few visits with Z.B., but they had gone pretty well. Getting to the visits was an issue for her. The Department gives her Amtrak tickets from Emeryville to Modesto, but she had to make her own arrangements for getting to and from the Emeryville station, and for getting from the Modesto station to the visits and back.

Mother testified she got a domestic violence restraining order against Gavin in 2010, due to his verbal abuse. Mother had always tried to make it possible for Z.B. to have a relationship with his father, but based on her conversations with Z.B., she was very concerned he would be at risk of harm in Gavin's custody.

Mother believed the children could be safely returned to her custody at disposition with some supportive services in place.

At the conclusion of the dispositional hearing, the Department and minors' counsel urged the court to apply the provisions of section 361.2,[6] make the fathers the

[6] Section 361.2 provides in relevant part: "(a) When a court orders removal of a child pursuant to Section 361, the court shall first determine whether there is a parent of the child, with whom the child was not residing at the time that the events or conditions

legal and physical custodians of the minors, and terminate its jurisdiction over them pursuant to subdivision 361.2, subdivision (b)(1). Mother urged the court to provide for further supervision of the placement with the fathers and, at the same time, provide family reunification services for Mother because she did, in fact, have the potential to be a placement for the minors.

E. ***Dispositional Ruling***

The court took the matter under submission and issued a written decision and order, and also adopted and signed form findings and orders with modifications. Over Mother's objection, the court ordered that both fathers assume custody of their sons, subject to juvenile court jurisdiction and requiring a home visit within three months, as set forth in section 361.2, subdivision (b)(2) (hereafter section 361.2(b)(2)). The court authorized Mother to have supervised visitation once a week for a total of two hours per week with A.B. As for Z.B., the court authorized Mother to have supervised visitation once a month for a total of three hours; and an additional visit each month, for up to two

---

arose that brought the child within the provisions of Section 300, who desires to assume custody of the child. If that parent requests custody, the court shall place the child with the parent unless it finds that placement with that parent would be detrimental to the safety, protection, or physical or emotional well-being of the child. [¶] (b) If the court places the child with that parent it may do any of the following: [¶] (1) Order that the parent become legal and physical custodian of the child. The court may also provide reasonable visitation by the noncustodial parent. The court shall then terminate its jurisdiction over the child. . . . [¶] (2) Order that the parent assume custody subject to the jurisdiction of the juvenile court and require that a home visit be conducted within three months. In determining whether to take the action described in this paragraph, the court shall consider any concerns that have been raised by the child's current caregiver regarding the parent. After the social worker conducts the home visit and files his or her report with the court, the court may then take the action described in paragraph (1), (3), or this paragraph. . . . [¶] (3) Order that the parent assume custody subject to the supervision of the juvenile court. In that case the court may order that reunification services be provided to the parent or guardian from whom the child is being removed, or the court may order that services be provided solely to the parent who is assuming physical custody in order to allow that parent to retain later custody without court supervision, or that services be provided to both parents, in which case the court shall determine, at review hearings held pursuant to Section 366, which parent, if either, shall have custody of the child."

hours, before or after Z.B.'s scheduled visits with A.B. in Marin County. The court did not order family reunification services for Mother. Mother filed a timely appeal.

II. DISCUSSION

Mother contends no substantial evidence supports the court's dispositional order removing the minors from her custody in the first instance. Therefore, there was no basis for transferring custody to their father. In the alternative, if this court rules otherwise, Mother maintains it was an abuse of discretion for the court to choose the section 361.2(b)(2) option rather than the section 361.2, subdivision (b)(3) (hereafter section 361.2(b)(3)) option of providing Mother with a case plan and reunification services.

A. *Removal*

The trial court found clear and convincing evidence of "a substantial danger to the physical health, safety, protection, or physical or emotional well-being of the minor[s]" if they were returned to the care of Mother, and there were "no reasonable means by which [the minors'] physical health [could] be protected without removing [them]" from her physical custody. (§ 361, subd. (c)(1).)

"In juvenile cases, as in other areas of the law, the power of an appellate court asked to assess the sufficiency of the evidence begins and ends with a determination as to whether or not there is any substantial evidence, whether or not contradicted, which will support the conclusion of the trier of fact. All conflicts must be resolved in favor of the respondent and all legitimate inferences indulged in to uphold the verdict, if possible. Where there is more than one inference which can reasonably be deduced from the facts, the appellate court is without power to substitute its deductions for those of the trier of fact." (*In re Katrina C.* (1988) 201 Cal.App.3d 540, 547.) On appeal from an order removing a child from parental custody, " 'the clear and convincing test disappears . . . [and] the usual rule of conflicting evidence is applied, giving full effect to the respondent's evidence, however slight, and disregarding the appellant's evidence, however strong.' " (*Sheila S. v. Superior Court* (2000) 84 Cal.App.4th 872, 880–881.)

Here, the evidence supporting the trial court's dispositional order removing the minors from Mother's custody included the following: (1) Mother's substance abuse, including nitrous oxide use, over a number of years, recent relapse, misleading representations that she had quit, and frequent appearance of being under the influence of drugs; (2) her failure to keep her drugs and prescriptions out of the minors' reach; (3) evidence of Mother's physical abuse of Z.B. and neglect of both boys; (4) Mother's undue focus on A.B.'s body and hygiene, overly "enmeshed" relationship with him, and placement of developmentally inappropriate responsibilities on him; and (5) Mother's tendency at times to make herself unreachable and uncooperative with professionals providing services to the minors. In our view, this constitutes substantial evidence supporting the removal of the minors from Mother's custody.

Mother cites appellate cases overturning removal orders premised wholly or substantially on the custodial parent's inability to maintain the home in a safe and clean condition, and urges we view this case as "essentially a 'dirty home' case." (See *In re Jeanette S.* (1979) 94 Cal.App.3d 52 [mother with some mental health issues kept home in a filthy condition; removal from custody of both parents]; *In re Paul E.* (1999) 39 Cal.App.4th 996 (*Paul E.*) [removal from custody due to chronic messiness and unsafe and unsanitary conditions].) We find both cases distinguishable. In *Jeanette S.*, the appellate court faulted the juvenile court for not considering two alternatives short of awarding custody to the department—close supervision of mother's homemaking with a threat of removal if she failed to comply, and placement with the father. (*Jeanette S.*, at pp. 60–61.) Here, the underlying problem was not Mother's inability to keep the house clean, but her substance abuse and related neglect of her children. There was evidence from which the court could have inferred that supervision by the Department would not have been adequate to protect the children in the circumstances presented (inability to drug test, Mother's history of secretiveness and noncooperation), and the court obviously did consider (and adopt) the alternative of giving custody of the minors to their fathers.

Paul E. is also not persuasive. Removal in that case was based on the parents' lack of sufficient progress in improving the condition of a messy, unsanitary home under

a case plan, rather than on any evidence of detriment to the minor due to the condition of the home. (*Paul E., supra*, 39 Cal.App.4th at pp. 1000, 1005.) The Court of Appeal held "chronic messiness by itself and apart from any unsanitary conditions or resulting illness or accident, is just not clear and convincing evidence of a substantial risk of harm." (*Id.* at p. 1005, italics omitted.) It found the specific hazards identified by the social service agency were "trivial to the point of being pretextual." (*Ibid.*) Such facts are not comparable to those presented in the record before us. The evidence showed actual detriment, danger, and neglect in the home as a result of Mother's substance abuse, not mere messiness or trivial, pretextual concerns about safety hazards. It showed physical abuse and unhealthy parenting. The deplorable and unsafe conditions found by the police in the minors' home were one part of a constellation of physical and emotional dangers the boys would have been subjected to had they remained in Mother's custody.

Other cases cited by Mother—*In re Jamie M.* (1982) 134 Cal.App.3d 530 and *In re James T.* (1987) 190 Cal.App.3d 58— are also distinguishable. *In re Jamie M.* turned on the principle that harm to the child could not be presumed from the mere fact of the parent's mental illness. (*Id.* at p. 540.) In *In re James T.* there was no evidence the teenage son's minor conflicts with his mother caused him any emotional damage. (*Id.* at pp. 64–65.) The evidence of actual and potential harm to the minors in this case far exceeds the evidence found insufficient in these cases.

Substantial evidence supports the order removing the minors from Mother's custody.

B. *Choice of Option under Section 361.2*

Mother argues in the alternative that even if we find removal of the minors from her custody was proper under section 361, it was still an abuse of judicial discretion for the juvenile court to choose the section 361.2(b)(2) option rather than select the section 361.2(b)(3) option, with orders that Mother be given a case plan with objectives and services to reunify. Mother seeks an order reversing the section 361.2 orders and a remand with directions for the juvenile court to hold a new hearing under section 361.2 and to make new orders including the provision to Mother of reunification services.

In general, the purpose of reunification services is to facilitate the return of a dependent child to *parental* custody. (*In re Erika W.* (1994) 28 Cal.App.4th 470, 476 (*Erika W.*).) But in the context of section 361.2, the decision whether to provide services, and to which parent, is discretionary to the court because the child is not out of the home, but already in placement with a parent. (*Erika W.*, at p. 476.) From the state's perspective, the family is already reunified. (*Ibid.*) The juvenile court thus has broad discretion when deciding between the options contained in section 361.2, subdivision (b). (*In re Gabriel L.* (2009) 172 Cal.App.4th 644, 652.) Section 361.2, subdivision (b) "contemplates that reunification services will be offered only for the purpose of facilitating permanent parental custody of the child by one or the other parent." (*Erika W.*, at p. 476.) The focus of the statute is on making a determination of which parent has the best potential to provide a safe and secure permanent home for the minor. (*Erika W.*, at p. 477.)

"A reviewing court will not disturb a juvenile court's custody determination unless it ' "exceeded the limits of legal discretion." ' " (*In re Nada R.* (2001) 89 Cal.App.4th 1166, 1179.) " ' ["]The appropriate test for abuse of discretion is whether the trial court exceeded the bounds of reason." ' " (*In re Stephanie M.* (1994) 7 Cal.4th 295, 318–319.)

Mother states, "the [section 361.2](b)(3) option was clearly the one indicated by the record and the court's own findings, and the selection of [section 361.2](b)(2) was an abuse of judicial discretion and a mistake." With respect to the section 361.2(b)(2) option, the juvenile court stated: "With each father recently assuming a full time role as a father and [Mother] recently becoming pro-active in addressing her challenges . . . , the court finds Welfare and Institutions Code section 361(b)(2) is an appropriate option to order for this case." According to Mother, these findings—along with (1) facts in the record casting doubt on the fathers' ability to adequately and safely parent the boys on a long-term basis; and (2) visitation issues assertedly requiring court supervision—indicate there was a need for "not just continuing jurisdiction with a home visit in three months, but continuing supervision by the juvenile court and the agency with orders that appropriate services be provided to at least Gavin and [Mother]."

Further, Mother maintains the section 361.2(b)(2) option is only designed for situations where there has not been enough time to investigate the noncustodial parent. According to Mother, this option was added to section 361.2 to serve as an alternative to ordering section 361.2, subdivision (b)(1) and terminating dependency jurisdiction before the agency has obtained sufficient information on the previously noncustodial parent.[7] She points out that in this case, the children had been placed with their fathers at detention. By the time of the disposition hearing five months later, the Department and court had a fair amount of information about the fathers, their homes, and how the placements were going. Under these circumstances, Mother contends the section 361.2(b)(2) option was an inappropriate choice relative to the section 361.2(b)(3) option because it would do little to help the court decide whether the fathers could provide the safest, most stable permanent homes for the boys.

We decline to read limitations into the use of section 361.2(b)(2) that are not to be found in the statutory language. We accept that the purpose of the statute is to enable the court to put itself in the best position to decide which parent has the greatest potential to provide a safe and secure permanent home for the minor. (*Erika W., supra*, 28 Cal.App.4th at p. 477.) Here, there was considerable evidence Mother was not that parent for either child, enough evidence to militate against providing services to her and requiring another review hearing down the road under the section 361.2(b)(3) option. There was also no evident reason to provide services to the fathers. No issues had been identified concerning Julian, and Gavin and his family were already taking steps on their own to address potential issues. At the same time, there were rational reasons not to adopt the section 361.2, subdivision (b)(1) option of immediately relinquishing further jurisdiction over the minors. As the court observed, both fathers were new to fulltime

[7] We have taken judicial notice of legislative bill analyses prepared in conjunction with the amendment of section 361.2 in 2005 to add the section 361.2(b)(2) option which indicate the bill arose from a tragic case in which an infant removed from an unstable mother and awarded to his noncustodial father died weeks later from traumatic injuries at the hands of the father.

parenting. The court could reasonably believe five months was too little time to be certain the new custody arrangements were the best option for each of the minors, and that more time and more information were required. Particularly with respect to the issues that had been raised concerning Gavin and his family, the three-month review option provided the court with the flexibility to assert continuing jurisdiction if it perceived it was not in Z.B.'s best interest to remain with him. We cannot say this was outside the bounds of reason.

III. DISPOSITION

The findings and orders on appeal are affirmed.

_____
Margulies, Acting P.J.

We concur:

_____
Banke, J.

_____
Becton, J.*

* Judge of the Contra Costa County Superior Court, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.